
United States District Court

Southern District of New York

11 Civ. 03650 (VSB)(RLE)

VONE WYNN,

Petitioner,

- against -

**WILLIAM LEE,
Superintendent, Green Haven Correctional Facility**

Respondent.

ANSWER AND APPENDIX OPPOSING PETITION FOR A WRIT OF HABEAS CORPUS

CYRUS R. VANCE, JR.
District Attorney
New York County
Attorney for Respondent
One Hogan Place
New York, New York 10013
(212) 335-9000

By: Jessica Olive
JO-1903
Attorney of Record

KAREN SCHLOSSBERG
JESSICA OLIVE
ASSISTANT DISTRICT ATTORNEYS
Of Counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VONE WYNN,

Petitioner,

-against-

WILLIAM LEE,
Superintendent, Green Haven Correctional Facility,

Respondent.

11-CV-03650 (VSB) (RLE)

JESSICA OLIVE, an attorney duly admitted to practice law before the bar of this Court, affirms under penalty of perjury pursuant to 28 U.S.C. § 1746 that:

1. I am an Assistant District Attorney, of counsel to CYRUS R. VANCE, the District Attorney of New York County and, pursuant to an arrangement with the Attorney General of the State of New York, I appear as the attorney of record on behalf of the respondent and the interests of the People of the State of New York in this matter.

2. I file this answer and accompanying memorandum of law in response to the above-captioned petition for a writ of habeas corpus. By that petition, Vone Wynn seeks a writ of habeas corpus to set aside a judgment of the Supreme Court, New York County (Charles Solomon, J. at conflict-of-interest

inquiry; Bonnie G. Wittner, J. at hearings and trial), entered on March 24, 2005. By that judgment, petitioner was convicted, after a jury trial, of Murder in the Second Degree (Penal Law § 125.25[1]), and was sentenced to an indeterminate prison term of 25 years to life. Petitioner is currently incarcerated at the Green Haven Correctional Facility.

3. Wynn's petition should be denied for the reasons set forth in respondent's memorandum of law submitted herewith. Factual statements in respondent's memorandum of law are based on the indictment, minutes, briefs and other records in custody of the New York State Supreme Court, New York County, and of the New York County District Attorney, cited in the memorandum. Statements in the petition are denied unless expressly admitted.

4. Appended to this Answer as exhibits are copies of the following documents:

EXHIBITS

- A A copy of the brief filed by petitioner's attorney in the Appellate Division, First Department ("the Appellate Division").
- B A copy of the responsive brief filed by the People in the Appellate Division.
- C A copy of the Appellate Division's decision on direct appeal, dated November 5, 2009.
- D A copy of petitioner's leave application to the New York State Court of Appeals ("the Court of Appeals"), dated December 28, 2009.
- E A copy of the People's response to petitioner's leave application, dated February 4, 2010.
- F A copy of the decision of Judge Theodore T. Jones, denying petitioner leave to appeal to the Court of Appeals, dated March 18, 2010.

- G A copy of the decision of Judge Theodore T. Jones, denying petitioner leave to appeal to the Court of Appeals upon reconsideration, dated August 3, 2010.
- H A copy of petitioner's letter requesting this Court to stay the proceedings and hold his habeas petition in abeyance, dated July 14, 2011.
- I A copy of the People's responding letter opposing petitioner's request to stay the proceedings, dated July 27, 2011.
- J A copy of petitioner's letter in response to the People's letter opposing petitioner's request to stay the proceedings, dated August 11, 2011.
- K A copy of petitioner's notice of motion to set aside the judgment against him, pursuant to New York Criminal Procedure Law ("CPL") Section 440.10, and affidavit in support, dated June 24, 2014.
- L A copy of the People's responding affirmation and memorandum of law in opposition to petitioner's CPL 440.10 motion, dated September 16, 2014.
- M A copy of the decision of Justice Bonnie G. Wittner, denying petitioner's CPL 440.10 motion, dated November 6, 2014.
- N A copy of petitioner's application to renew his CPL 440.10 motion, dated December 5, 2014.
- O A copy of the People's responding affirmation and memorandum of law in opposition to petitioner's application to renew his CPL 440.10 motion, dated June 11, 2015.
- P A copy of petitioner's notice of motion for permission to appeal Justice Wittner's denial of his CPL 440.10 motion, pursuant to CPL Section 460.15, and affidavit in support, dated December 11, 2014.
- Q A copy of the People's letter in opposition to petitioner's CPL 460.15 motion, dated January 30, 2015.
- R A copy of the decision of Justice Angela M. Mazzairelli, denying petitioner's CPL 460.15 motion, dated March 30, 2015 and entered April 23, 2015.
- S A copy of the decision of Justice Wittner, denying petitioner's motion to renew his CPL 440.10 motion, dated August 14, 2015.
- T A copy of petitioner's notice of application to the Appellate Division for permission to appeal Justice Wittner's denial of his motion to renew his CPL 440.10 motion, pursuant to CPL 460.15, and affidavit in support, dated October 2, 2015.
- U A copy of the People's letter in opposition to petitioner's CPL 460.15 motion, dated November 12, 2015.

V A copy of the decision of Justice Sallie Manzanet-Daniels, denying petitioner's CPL 460.15 motion, dated November 23, 2015 and entered December 3, 2015.

5. Respondent has also provided a copy of the transcripts from petitioner's trial and the following court proceedings: April 8 and 29, May 13, 21, and 27, and June 10, 2004, as well as the suppression hearing of August 19 and 24, 2004.

WHEREFORE, it is respectfully requested that the petition for a writ of habeas corpus be denied pursuant to Rule 8(a) governing 28 U.S.C. Section § 2254 cases.

Dated: July 26, 2016
New York, New York

CYRUS R. VANCE, JR.
District Attorney, New York County
Counsel for Respondent
One Hogan Place
New York, New York 10013

BY: s/ Jessica Olive
JESSICA OLIVE (JO-1903)
Assistant District Attorney
Attorney of Record for Respondent
Of Counsel